

**(PCT Article 36 and Rule 70)**

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/000085

Box No. 1

## Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 14-22 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-13 \_\_\_\_\_ received by this Authority on 28.10.2004 with the letter submitted on 28.10.2004
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the drawings:
- sheets \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1-22	YES
	Claims		NO
Inventive step (IS)	Claims	1-22	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-22	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

1. The amendments to claims 1 and 7 (1-13) submitted with the letter of 28 November 2004 are acceptable (PCT Article 34(2)(b)) (claims 7, 16 and 20; page 1, lines 8-9; page 3, lines 4-7; page 6, lines 16-18 of the original version).

2. In the present report, reference is made to the following document:

D1: US-A-6 022 718 (IWAI KAZUO ET AL)  
8 February 2000 (2000-02-08).

The present application (claims 1-13 and 15-22) and document D1, which is considered to be the most relevant prior art, relate to thermogenesis-stimulating compositions based on capsaicinoids and a vegetable and/or mineral oil. Claim 1 suggests the use of vegetable and/or mineral oil in combination with a lipophilic additive that is solid or pasty at ambient temperature, in order to reduce the irritant effects of capsaicinoids on the gastric mucosa. None of the documents in the search report proposes the use of thermogenesis-

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

stimulating compositions based on capsaicinoids and a vegetable and/or mineral oil in combination with a lipophilic additive that is solid or pasty at ambient temperature, in order to reduce the irritant effects of capsaicinoids on the gastric mucosa. It would not be obvious for a person skilled in the art to use, with a corresponding effect, the solutions proposed in claims 1, 15 and 19 (2-13, 16-18 and 20-22) of the present application.

None of the search report documents describes the composition in the form of soft capsules as per claim 14. The solution proposed in claim 14 of the present application is considered to be inventive to a person skilled in the art.

Claims 1-22 fulfil the PCT requirements of novelty and inventive step (PCT Article 33(2) and 33(3)).